



## 2005 ASSEMBLY BILL 1127

March 14, 2006 - Introduced by Representatives PRIDEMORE and ALBERS. Referred to Committee on Health.

1     **AN ACT** *to create* 146.997 (5m) of the statutes; **relating to:** immunity from  
2     liability for a health care provider, health care facility, or employee of a health  
3     care provider or health care facility that, in good faith, reports a violation of the  
4     law or of a clinical or ethical standard by another health care provider, health  
5     care facility, or employee of a health care provider or health care facility.

---

### ***Analysis by the Legislative Reference Bureau***

Under current law, a physician who in good faith provides the Medical Examining Board with information concerning an allegation that another physician has engaged in unprofessional conduct or acted negligently in treating a patient is immune from liability for any damage that results from any act or omission in providing the information and may not be disciplined by that board for providing the information.

Also, current law prohibits retaliation or other employment discrimination against any employee of a health care facility or of a health care provider who in good faith reports any information, the disclosure of which is not expressly prohibited by law, that would lead a reasonable person to believe that the health care facility or health care provider, or an employee of the health care facility or health care provider, has committed a violation of the law or of a clinical or ethical standard established by a professionally recognized accrediting or standard-setting body (clinical or ethical standard) that poses a potential risk: 1) to public health or safety to any appropriate state agency; 2) to any professionally recognized accrediting or

**ASSEMBLY BILL 1127**

standard-setting body that has accredited, certified, or otherwise approved the health care facility or health care provider (accrediting or standard-setting body); 3) to any officer or director of the health care facility or health care provider; or 4) to any employee of the health care facility or health care provider who is in a supervisory capacity or in a position to take corrective action (supervisor). In addition, current law prohibits retaliation or other employment discrimination against any employee of a health care facility or health care provider who initiates, participates in, or testifies in any action or proceeding in which such a violation is alleged or who provides to any legislator or legislative committee any information relating to such an alleged violation.

This bill provides for immunity from liability for any health care provider, health care facility, or employee of a health care provider or health care facility that in good faith reports or provides any information, or that in good faith initiates, participates in, or testifies in any action or proceeding, as follows:

1. Reports any information, the disclosure of which is not expressly prohibited by law, relating to an allegation that another health care provider, health care facility, or employee of a health care provider or health care facility has committed a violation of the law or of a clinical or ethical standard that poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient to any appropriate state agency; to any accrediting or standard-setting body; or to any officer, director, or supervisor of the health care facility or health care provider.

2. Initiates, participates in, or testifies in any action or proceeding in which it is alleged that another health care provider, health care facility, or employee of a health care provider or health care facility has committed a violation of the law or of a clinical or ethical standard that poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient.

3. Provides to any legislator or legislative committee any information relating to an allegation that another health care provider, health care facility, or employee of a health care provider or health care facility has committed a violation of the law or of a clinical or ethical standard that poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 146.997 (5m) of the statutes is created to read:

2           146.997 (5m) IMMUNITY FROM LIABILITY. (a) Any health care provider, health  
3 care facility, or employee of a health care provider or health care facility that in good  
4 faith reports or provides any information, or that in good faith initiates, participates

**ASSEMBLY BILL 1127**

1 in, or testifies in any action or proceeding, is immune from all civil and criminal  
2 liability that may result from any act or omission in reporting or providing that  
3 information or in initiating, participating in, or testifying in that action or  
4 proceeding, as follows:

5 1. Reports to a person specified in sub. (2) (a) (intro.) any information, the  
6 disclosure of which is not expressly prohibited by any state law or rule or federal law  
7 or regulation, relating to an allegation that another health care provider, health care  
8 facility, or employee of a health care provider or health care facility has committed  
9 a violation specified in sub. (2) (a) 1. or 2., has engaged in unprofessional conduct, or  
10 has acted negligently in treating a patient.

11 2. Initiates, participates in, or testifies in any action or proceeding in which it  
12 is alleged that another health care provider, health care facility, or employee of a  
13 health care provider or health care facility has committed a violation specified in sub.  
14 (2) (a) 1. or 2., has engaged in unprofessional conduct, or has acted negligently in  
15 treating a patient.

16 3. Provides to any legislator or legislative committee any information relating  
17 to an allegation that another health care provider, health care facility, or employee  
18 of a health care provider or health care facility has committed a violation specified  
19 in sub. (2) (a) 1. or 2., has engaged in unprofessional conduct, or has acted negligently  
20 in treating a patient.

21 (b) For purposes of par. (a), a health care provider, health care facility, or  
22 employee of a health care provider or health care facility is not acting in good faith  
23 if the health care provider, health care facility, or employee reports any information  
24 under par. (a) 1. that the health care provider, health care facility, or employee knows  
25 or should know is false or misleading; initiates, participates in, or testifies in any

**ASSEMBLY BILL 1127**

1 action or proceeding under par. (a) 2. based on information that the health care  
2 provider, health care facility, or employee knows or should know is false or  
3 misleading; or provides any information under par. (a) 3. that the health care  
4 provider, health care facility, or employee knows or should know is false or  
5 misleading.

6 **SECTION 2. Initial applicability.**

7 (1) IMMUNITY FROM LIABILITY FOR HEALTH CARE PROVIDERS, FACILITIES, AND  
8 EMPLOYEES. This act first applies to a health care provider, health care facility, or  
9 employee of a health care provider or health care facility that reports or provides  
10 information, or that initiates, participates in, or testifies in any action or proceeding,  
11 as described in section 146.997 (5m) (a) of the statutes, as created by this act, on the  
12 effective date of this subsection.

13 (END)